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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent Of:

Albert Charles McNamara

Patent No. 5,901,641

Issued: May 11, 1999

Serial No.: 10/072,001

Filing Date: February 8, 2002

Title: BAFFLE FOR DEEP FRYER
HEAT EXCHANGER

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Attorney Docket No.: P-109009(Reissue)

Examiner: Timothy F. Simone

Art Unit: 1761

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Box Response

Commissioner of Patents and Trademarks

Washington, D.C. 20231

RESPONSE TO OFFICE ACTION DATED SEPTEMBER 19, 2002

This correspondence is being filed as a full response to the Office action of September 19, 2002. Applicant respectfully requests entry of the following arguments and consideration of the appended remarks.

ARGUMENTS

35 USC § 102(b)

The Examiner rejected claim 43 as being anticipated by the Pitco Frialator (shown as Exhibit "D" in Applicant's disclosure).

Applicant respectfully apologizes for any confusion and respectfully submits that the Pitco Frialator shown in Exhibit "D" is not prior art. Instead, the Pitco Frialator is the infringing device under which a suit for patent infringement was brought against Pitco Frialator by Applicant prior to the filing of the present reissue application.

As a result, Applicant respectfully requests that the Pitco Frialator be removed as a reference and that the rejection under § 102 regarding claim 43 be withdrawn by the Examiner.

Surrender of Original Patent

The Examiner stated that a notice of allowance may not be rendered in the present application until the original letters patent has been returned, as required under 37 CFR § 1.178.

In accordance with this requirement, Applicant has attached (i.e., surrendered) the original patent certificate for U.S. Patent No. 5,901,641, upon which this reissue application is based.